

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6314**

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RAY THOMAS MCCRAY,

Petitioner - Appellant,

versus

GENE M. JOHNSON,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (CA-02-668)

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Submitted: June 12, 2003

Decided: June 17, 2003

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Before WIDENER, LUTTIG, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Ray Thomas McCray, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Ray Thomas McCray seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2000) petition without prejudice because he failed to pay the filing fee. Because McCray can refile his petition and pay the requisite filing fee, his appeal is interlocutory and not subject to appellate review under Domino Sugar Corp. v. Sugar Workers Local 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED